

ESTTA Tracking number: **ESTTA151919**

Filing date: **07/19/2007**

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	Head Technology GmbH		
Entity	Corporation	Citizenship	Austria
Address	Wuhrkopfweg 1 Kennelbach, A-6921 AUSTRIA		

Attorney information	Linda K. McLeod Finnegan Henderson Farabow Garrett & Dunner, L.L.P. 901 New York Avenue, NW Washington, DC 20001-4413 UNITED STATES docketing@finnegan.com, linda.mcleod@finnegan.com, judy.valusek@finnegan.com Phone:202-408-4000
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Applicant Information

Application No	78844705	Publication date	06/19/2007
Opposition Filing Date	07/19/2007	Opposition Period Ends	07/19/2007
Applicant	MBL/TIGI PRODUCTS, LP 2311 Midway Road Carrollton, TX 75006 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: infant, children and adult clothing, namely, anklets, anoraks, aprons, athletic uniforms, baby booties, baby bunting, baby rompers, baby sleepers, bandannas, bib overalls, cloth bibs, sweat bands, wrist bands, bathing suits, bathing trunks, beach cover-ups, beachwear, belts, blazers, blouses, brassieres, briefs, cheerleader uniforms, cloth diapers, coats, leather coats, rain coats, sport coats, waistcoats, jackets, leather jackets, coveralls, fleece coveralls, infant coveralls, infant wear, dresses, dungarees, ear muffs, foul weather gear, gloves, shirts, golf shirts, knit shirts, night shirts, polo shirts, rugby shirts, sport shirts, sweatshirts, t-shirts, tops, halter tops, tank tops, shorts, boxer shorts, gym shorts, sweat shorts, hosiery, jumpers, jumpsuits, leg warmers, lingerie, loungewear, mittens, negligees, neck bands, neckerchiefs, neckwear, night gowns, pajamas, pants, lap pants, balloon pants, pantsuits, slacks, ski pants, snow pants, sweat pants, panties, parkas, ponchos, rainwear, robes, scarves, shower caps, ski wear, skirts, sleepwear, slippers, smocks, socks, sweat socks, thermal socks, stockings, suits, body suits, gym suits, jogging suits, fleece jogging suits, play suits, sun suits, sweat suits, tracksuits, vested suits, warm-up suits, wind suits, suspenders, sweaters, turtleneck sweaters, v-neck sweaters, swim wear, swim trunks, swimsuits, teddies, tennis wear, ties, bow ties, neck ties, tights, trousers, turtlenecks, tuxedos, underpants, undershirts, underwear, thermal underwear, veils, vests, fishing waders; footwear, namely, shoes, clogs, golf shoes, thong footwear, slippers, sneakers; headwear, namely, berets, caps, baseball caps, bathing caps, hats, head bands, visors, sun visors; costumes, namely,</p>
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Halloween costumes, masquerade costumes, swimming costumes; and uniforms
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1020388	Application Date	07/22/1974
Registration Date	09/16/1975	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 008. First use: First Use: 1962/08/30 First Use In Commerce: 1962/08/30 [SKI TOUCH-UP FILES] Class 009. First use: First Use: 1972/09/30 First Use In Commerce: 1972/09/30 [SKI GOGGLES AND SKI SUNGLASSES] Class 018. First use: First Use: 1969/03/31 First Use In Commerce: 1969/03/31 TEAM TOTE BAGS Class 025. First use: First Use: 1967/03/20 First Use In Commerce: 1967/03/20 MEN'S AND WOMEN'S SKI WEAR INCLUDING PANTS, PARKAS, SHIRTS, SWEATERS, SUITS, HATS, AND WOMEN'S TENNIS WEAR INCLUDING SHORTS, PANTS, SHIRTS, SWEATERS, SUITS, JACKETS, BLAZERS, SKIRTS, DRESSES, SOCKS, SWEATBANDS, HEADBANDS, [SUNVISORS,] AND TENNIS SHOES; AND WOMEN'S GENERAL SPORTSWEAR - NAMELY, SHORTS, PANTS, JACKETS, BLAZERS, SUITS, SHIRTS, SWEATERS, SKIRTS, DRESSES AND SCARVES Class 028. First use: First Use: 1948/12/31 First Use In Commerce: 1948/12/31 SLALOM SKIS, [SKI BINDINGS AND SKI POLES, AND TOURING SKIS, SKI BINDINGS AND SKI POLES,] AND TENNIS RACKETS, AND TENNIS RACKET COVERS, GUT AND NYLON STRING FOR TENNIS RACKETS, AND SKI BAGS, [SKI BOOT BAGS] AND TENNIS RACKET BAGS		

U.S. Registration No.	1695827	Application Date	10/04/1990
Registration Date	06/23/1992	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1990/04/00 First Use In Commerce: 1990/04/00 tensometers; namely, meters and measuring devices for determining the tension to which a sports racket is strung Class 018. First use: First Use: 1975/09/00 First Use In Commerce: 1975/09/00 carry-on bags, back packs and waist bags Class 025. First use: First Use: 1983/01/00 First Use In Commerce: 1983/01/00 men's tennis wear, wristbands, T-shirts, gaitors and athletic shoes		

	Class 028. First use: First Use: 1970/09/00 First Use In Commerce: 1970/09/00 squash rackets, racketball rackets, grip tape for rackets, gut and nylon string for rackets, racket gloves, balancing weights for rackets, head guard tape for rackets, squash racket bags, ski gloves, and ski boots		
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U.S. Registration No.	871815	Application Date	10/19/1967
Registration Date	06/24/1969	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U039 (International Class 009, 025). First use: First Use: 1967/03/20 First Use In Commerce: 1967/03/20 SKI CLOTHING-NAMELY, [SKI PANTS,] SKI PARKAS [, SKI SWEATERS, SKI GLOVES, AND HARD HELMETS]		

U.S. Registration No.	675190	Application Date	05/28/1958
Registration Date	03/10/1959	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U022 (International Class 028). First use: First Use: 1948/12/00 First Use In Commerce: 1948/12/00 SNOW SKIS		

U.S. Registration No.	1762980	Application Date	06/29/1992
Registration Date	04/06/1993	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1991/01/00 First Use In Commerce: 1991/01/00 [golf gloves, hats visors and caps, golf shoes] Class 028. First use: First Use: 1991/01/00 First Use In Commerce: 1991/01/00 golf clubs, and golf bags		

U.S. Registration No.	1677425	Application Date	10/04/1990
Registration Date	03/03/1992	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use: First Use: 1982/12/00 First Use In Commerce: 1982/12/00 [sunglasses and sunglass frames]</p> <p>Class 014. First use: First Use: 1987/10/00 First Use In Commerce: 1987/10/00 [watches]</p> <p>Class 021. First use: First Use: 1989/01/00 First Use In Commerce: 1989/01/00 water bottles</p> <p>Class 024. First use: First Use: 1989/01/00 First Use In Commerce: 1989/01/00 towels</p>

U.S. Registration No.	2045422	Application Date	06/20/1995
Registration Date	03/18/1997	Foreign Priority Date	NONE
Word Mark	HEAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: sport bags, namely athletic bags; bags, namely school bags, book bags, and beach bags; game bags, namely animal game bags and hunters' game bags; leather and imitation leather sold in bulk; suitcases; trunks for traveling; attache cases; briefcases; mesh, textile, and leather shopping bags; mesh, textile, and leather shopping nets in the nature of netted bags; handbags; wallets; vanity cases sold empty; toiletry bags sold empty for traveling; traveling bags; rucksacks; duffel bags for traveling; key wallets in the nature of cases; and bags with rollers, namely traveling bags and luggage</p> <p>Class 020. First use: [camping bags, namely sleeping bags and bags for carrying sleeping bags]</p> <p>Class 021. First use: [fitted vanity cases]</p> <p>Class 022. First use: [trunks for storage]</p>		

Attachments	<p>72282900#TMSN.gif (1 page)(bytes)</p> <p>72052492#TMSN.gif (1 page)(bytes)</p> <p>Notice of Opposition.pdf (5 pages)(278118 bytes)</p>
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Signature	/Linda K. McLeod/
Name	Linda K. McLeod
Date	07/19/2007

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

<p>HEAD TECHNOLOGY GMBH, Opposer v. MBL/TIGI PRODUCTS, LP, Applicant.</p>	<p>Opposition No. Serial No. 78844705 Filing Date: March 23, 2006 Mark: BED HEAD</p>
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NOTICE OF OPPOSITION

Opposer Head Technology GmbH ("Opposer" or "Head"), a corporation of Austria, having a business address at Wuhrkopfweg 1, A-6921 Kennelbach, Austria, believes that it is being and will be damaged by the registration of the mark BED HEAD as shown in Application Serial No. 78844705, and hereby opposes the same. As grounds for its opposition, Opposer alleges that, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

Opposer and its Marks

1. Opposer Head Technology GmbH, is a corporation of Austria with its principal place of business at Wuhrkopfweg 1, A-6921 Kennelbach, Austria.
2. Opposer, through its predecessors-in-interest, related companies, and licensees, has been engaged in the manufacture, advertising, and sale of a wide variety of sports equipment, bags, clothing, hats, footwear, eyewear, and related products since long prior to the filing date of the subject application, and any date of first use that may be alleged by Applicant.

3. Opposer, through its predecessors-in-interest and related companies, has used HEAD in the United States as part of its trade name since at least the 1950's.

4. Opposer Head Technology GmbH is the owner of, among others, the following United States trademark registrations for the mark HEAD for the goods set forth below ("Opposer's Goods"):

Mark	Reg. No. Reg. Date	Goods
HEAD	1020388 9/16/75	Men's and women's ski wear including pants, parkas, shirts, sweaters, suits, hats, and women's tennis wear including shorts, pants, shirts, sweaters, suits, jackets, blazers, skirts, dresses, socks, sweatbands, headbands, tennis shoes; and women's general sportswear, namely, shorts, pants, jackets, blazers, suits, shirts, sweaters, skirts, dresses Team tote bags Slalom skis, and tennis rackets and tennis racket covers, nylon string for tennis rackets, ski boot bags, and ski bags, tennis racket bags
HEAD	1695827 6/23/92	Men's tennis wear, wristbands, t-shirts, gaiters and athletic shoes Carry-on bags, back packs, and waist bags Squash rackets, racketball rackets, grip tape for rackets, gut and nylon string for rackets, racket gloves, balancing weights for rackets, head guard tape for rackets, ski gloves, ski boots
HEAD & Design	871815 6/24/69	Ski parkas
HEAD	675190 3/10/59	Snow skis
HEAD	1762980 4/06/93	Golf clubs, and golf bags
HEAD	1677425 3/3/92	Water bottles and towels
HEAD	2045422 3/18/97	Sport bags, namely athletic bags; traveling bags; rucksacks

5. The foregoing registrations in Paragraph 4 above are valid and subsisting and constitute *prima facie* evidence of the validity of the marks and registrations, of

Opposer's ownership of and exclusive right to use the marks in commerce, and provide constructive notice of ownership thereof by Opposer.

6. As a result of Opposer's promotional efforts and commercial success, Opposer's HEAD trade name and marks have achieved such widespread public recognition that they have become famous.

Applicant and its Mark

7. MBL/TIGI Products, LP ("Applicant") is a limited partnership organized and existing under the laws of the state of Texas, with an address of 2311 Midway Road, Carrollton, Texas 75007.

8. Applicant is the listed owner of Application Serial No. 78844715 for the mark BED HEAD for "infant, children and adult clothing, namely, anklets, anoraks, aprons, athletic uniforms, baby booties, baby bunting, baby rompers, baby sleepers, bandannas, bib overalls, cloth bibs, sweat bands, wrist bands, bathing suits, bathing trunks, beach cover-ups, beachwear, belts, blazers, blouses, brassieres, briefs, cheerleader uniforms, cloth diapers, coats, leather coats, rain coats, sport coats, waistcoats, jackets, leather jackets, coveralls, fleece coveralls, infant coveralls, infant wear, dresses, dungarees, ear muffs, foul weather gear, gloves, shirts, golf shirts, knit shirts, night shirts, polo shirts, rugby shirts, sport shirts, sweatshirts, t-shirts, tops, halter tops, tank tops, shorts, boxer shorts, gym shorts, sweat shorts, hosiery, jumpers, jumpsuits, leg warmers, lingerie, loungewear, mittens, negligees, neck bands, neckerchiefs, neckwear, night gowns, pajamas, pants, lap pants, balloon pants, pantsuits, slacks, ski pants, snow pants, sweat pants, panties, parkas, ponchos, rainwear, robes, scarves, shower caps, ski wear, skirts, sleepwear, slippers, smocks,

socks, sweat socks, thermal socks, stockings, suits, body suits, gym suits, jogging suits, fleece jogging suits, play suits, sun suits, sweat suits, tracksuits, vested suits, warm-up suits, wind suits, suspenders, sweaters, turtleneck sweaters, v-neck sweaters, swim wear, swim trunks, swimsuits, teddies, tennis wear, ties, bow ties, neck ties, tights, trousers, turtlenecks, tuxedos, underpants, undershirts, underwear, thermal underwear, veils, vests, fishing waders; footwear, namely, shoes, clogs, golf shoes, thong footwear, slippers, sneakers; headwear, namely, berets, caps, baseball caps, bathing caps, hats, head bands, visors, sun visors; costumes, namely, Halloween costumes, masquerade costumes, swimming costumes; and uniforms," filed under Section 1(b), 15 U.S.C. § 1051(b).

Likelihood of Confusion, 15 U.S.C. §1052(d)

9. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 8.

10. Since well prior to the filing date of Application No. 78844705 and any date of first use that may be alleged by Applicant, Opposer and its related companies and licensees have used the HEAD trade name and marks set forth above in commerce in the United States in connection with the advertising, promotion, and sale of Opposer's Goods.

11. Opposer's pleaded registrations issued well prior to the filing date of Application No. 78844705 and any date of first use that may be alleged by Applicant

12. In view of the similarity of the parties' marks and the identical and closely related nature of the parties' products, Applicant's mark so resembles Opposer's previously used HEAD trade name and mark, and previously registered HEAD marks,

as to be likely to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d), 15 U.S.C. § 1052(d).

Dilution, 15 U.S.C. §1125(c)(1)

13. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 12.

14. Opposer's marks became famous well prior to the filing date of Application Serial No. 78844705 and any date of first use that may be alleged by Applicant.

15. In view of the similarities of the parties' marks and the fame of Opposer's marks, Applicant's mark so closely resembles Opposer's famous marks as to dilute or be likely to dilute the distinctive quality of Opposer's marks.

WHEREFORE, for the foregoing reasons, Opposer is being and will be damaged by the registration of the mark shown in Application Serial No. 78844705, and respectfully requests that registration be refused and that this opposition be sustained.

Respectfully submitted,

HEAD TECHNOLOGY GMBH

By: 

Dated: July 19, 2007

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