

ESTTA Tracking number: **ESTTA211296**

Filing date: **05/14/2008**

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	Under Armour, Inc
Granted to Date of previous extension	05/14/2008
Address	1020 Hull Street Baltimore, MD 21230 UNITED STATES
Attorney information	Leigh Ann Lindquist Sughrue Mion, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3212 UNITED STATES mperry@sughrue.com, aspriggs@sughrue.com, tm@sughrue.com Phone:2026637409

Applicant Information

Application No	77242322	Publication date	01/15/2008
Opposition Filing Date	05/14/2008	Opposition Period Ends	05/14/2008
Applicant	Balolia, Shabir 1821 Valencia Street Bellingham, WA 98229 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. All goods and services in the class are opposed, namely: Protective padding for playing baseball, football, basketball, soccer, lacrosse, hockey, skateboarding, rollerskating, snow skiing, water skiing, rugby, volleyball, bicycling, motorcycling, wrestling and martial arts

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.	2279668	Application Date	08/13/1996
Registration Date	09/21/1999	Foreign Priority Date	NONE

Word Mark	UNDER ARMOUR
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1996/09/07 First Use In Commerce: 1996/09/07 clothing, namely, T-shirts, long sleeve shirts, [turtle necks] , mock turtle necks, hats, shorts, shirts, leggings, [socks,] jersey's, pants, headwear for winter and summer, under wear, tank tops (male and female), [wristbands/headbands, shoes, rain suits, gloves, jackets (winter and summer),] winter caps, sweat shirts/pull overs, womens bra

U.S. Registration No.	2917039	Application Date	11/26/2003
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	UNDER ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/09/07 First Use In Commerce: 1996/09/07 WRISTBANDS, HEADBANDS, RAIN SUITS, JACKETS, SOCKS, SKIRTS, ATHLETIC SLEEVES, HOODS, SKULL WRAPS, SKULL CAPS, VESTS, HATS, SHORTS, SHIRTS, LEGGINGS, PANTS, HEADWEAR FOR WINTER AND SUMMER, UNDERWEAR, TANK TOPS, BRAS, GIRDLES		

U.S. Registration No.	2954369	Application Date	11/26/2003
Registration Date	05/24/2005	Foreign Priority Date	NONE
Word Mark	UNDER ARMOUR		
Design Mark			
Description of Mark	THE MARK CONSISTS OF THE STYLIZED LETTERS "U" AND "A" AND THE WORDS "UNDER ARMOUR".		
Goods/Services	Class 025. First use: First Use: 1999/12/01 First Use In Commerce: 1999/12/01 WRISTBANDS, HEADBANDS, RAIN SUITS, JACKETS, SOCKS, SKIRTS, ATHLETIC SLEEVES, HOODS, SKULL WRAPS, SKULL CAPS, VESTS, HATS, SHORTS, SHIRTS, LEGGINGS, PANTS, HEADWEAR FOR WINTER AND SUMMER, UNDERWEAR, TANK TOPS, BRAS, GIRDLES		

U.S. Registration No.	2509632	Application Date	11/01/2000
Registration Date	11/20/2001	Foreign Priority Date	NONE
Word Mark	UA UNDER ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/08/00 First Use In Commerce: 1996/08/00 CLOTHING NAMELY; SHIRTS, HATS, PANTS, T-SHIRTS, UNDERWEAR, BRASSIERE AND SHORTS		

U.S. Registration No.	3052160	Application Date	11/26/2003
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	UNDER ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2004/07/12 First Use In Commerce: 2004/07/12 Chin strap pads for use with protective helmets</p> <p>Class 018. First use: First Use: 2004/08/06 First Use In Commerce: 2004/08/06 TOILETRY KITS, SOLD EMPTY</p> <p>Class 021. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 SPORTS BOTTLES, SOLD EMPTY</p> <p>Class 022. First use: First Use: 2001/10/00 First Use In Commerce: 2001/10/00 Lanyards for holding mouthpieces, water bottles, eyeglasses, badges, or keys</p> <p>Class 024. First use: First Use: 2001/00/00 First Use In Commerce: 2001/00/00 SPORTS TOWELS</p> <p>Class 025. First use: First Use: 2004/11/22 First Use In Commerce: 2004/11/22 GLOVES</p>		

U.S. Registration No.	3081173	Application Date	11/26/2003
Registration Date	04/18/2006	Foreign Priority Date	NONE
Word Mark	UA UNDER ARMOUR		
Design Mark			
Description of Mark	The mark consists of a stylized letter 'U' and a stylized letter 'A' above the words UNDER ARMOUR.		
Goods/Services	<p>Class 009. First use: First Use: 2004/07/12 First Use In Commerce: 2004/07/12 Chin strap pads for use with protective helmets</p> <p>Class 018. First use: First Use: 2004/08/06 First Use In Commerce: 2004/08/06 TOILETRY KITS, SOLD EMPTY</p> <p>Class 021. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 SPORTS BOTTLES, SOLD EMPTY</p> <p>Class 024. First use: First Use: 2001/00/00 First Use In Commerce: 2001/00/00 SPORTS TOWELS</p> <p>Class 025. First use: First Use: 2004/11/22 First Use In Commerce: 2004/11/22 GLOVES</p>		

U.S. Registration No.	2991124	Application Date	11/26/2003
Registration Date	09/06/2005	Foreign Priority Date	NONE
Word Mark	UA UNDER ARMOUR		
Design Mark			
Description of Mark	The mark consists of a stylized letter "U" and a stylized letter "A" above the words UNDER ARMOUR.		

Goods/Services	Class 018. First use: First Use: 2003/10/07 First Use In Commerce: 2003/10/07 SPORT BAGS, TRAVEL BAGS, DUFFEL BAGS, BACKPACKS, SACK PACS, AND RESERVOIR BACKPACKS		
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U.S. Registration No.	3174498	Application Date	11/26/2003
Registration Date	11/21/2006	Foreign Priority Date	NONE
Word Mark	UNDER ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2003/09/15 First Use In Commerce: 2003/09/15 SPORT BAGS, TRAVEL BAGS, DUFFEL BAGS, BACKPACKS, SACK PACS		

U.S. Registration No.	3178549	Application Date	07/20/2005
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	UNDER ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2006/04/24 First Use In Commerce: 2006/04/24 Athletic footwear		

U.S. Registration No.	3138451	Application Date	06/22/2005
Registration Date	09/05/2006	Foreign Priority Date	NONE
Word Mark	UA UNDER ARMOUR #		
Design Mark			
Description of Mark	The mark consists of an oval containing in its center a logo consisting of the letters U and A overlapping vertically and depicted over the words UNDER ARMOUR with a smaller rectangular shape having rounded edges and containing a number sign depicted to the right of the logo.		
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Clothing, namely vests, gloves, jackets and shirts		

U.S. Registration No.	3069215	Application Date	03/25/2004
Registration Date	03/14/2006	Foreign Priority Date	NONE
Word Mark	ARMOURBLOCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Gloves, socks, hoods, shirts, T-shirts, leggings, pants, headwear for winter, underwear, and tank tops		

U.S. Registration No.	3392904	Application Date	05/02/2005
Registration Date	03/04/2008	Foreign Priority Date	NONE
Word Mark	ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/11/15 First Use In Commerce: 2007/11/15 Clothing, excluding golf clothing, namely, shorts, shirts, polo shirts, pants, jackets, vests and gloves		

U.S. Registration No.	3375771	Application Date	06/05/2007
Registration Date	01/29/2008	Foreign Priority Date	NONE
Word Mark	UNDER ARMOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2004/10/24 First Use In Commerce: 2004/10/24 Retail store services featuring apparel and sporting goods		

Attachments	75149114#TMSN.gif (1 page)(bytes) 76561985#TMSN.gif (1 page)(bytes) 76561993#TMSN.gif (1 page)(bytes) 76157067#TMSN.gif (1 page)(bytes) 76561989#TMSN.gif (1 page)(bytes) 76561986#TMSN.gif (1 page)(bytes) 76561990#TMSN.gif (1 page)(bytes) 76561991#TMSN.gif (1 page)(bytes) 78674053#TMSN.jpeg (1 page)(bytes) 78655916#TMSN.jpeg (1 page)(bytes) 78390714#TMSN.gif (1 page)(bytes) 78620757#TMSN.jpeg (1 page)(bytes) 77198291#TMSN.jpeg (1 page)(bytes) 500183 Notice of Opposition - ARMORSPORT.pdf (6 pages)(254886 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Leigh Ann Lindquist/
Name	Leigh Ann Lindquist
Date	05/14/2008

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

Under Armour, Inc.,

Opposer,

v.

Shabir Balolia,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Under Armour, Inc., a Maryland corporation with a business address of 1020 Hull Street, Baltimore, Maryland 21230, believes that it will be damaged by registration of the mark ARMORSPORT which is the subject of Application Serial No. 77/242,322, filed by Shabir Balolia, and hereby opposes registration of said mark.

As grounds for opposition, it is alleged that:

1. Opposer has, for many years, sold and distributed clothing.
2. Since at least as early as September 1996, and since long prior to any date of first use that can be relied on by Applicant, Opposer has continuously used the mark and trade name UNDER ARMOUR to identify its business and its line of clothing, and related goods, up to and including the present time. In addition, Opposer has used its UNDER ARMOUR mark and trade name in connection with retail store services featuring apparel and sporting goods since at least as early as 2004.
3. Opposer owns the following trademark registrations, among others:

Mark	Registration No.	Goods/Services
UNDER ARMOUR	2,279,668	Clothing, namely, T-shirts, long sleeve shirts, mock turtle necks, hats, shorts, shirts, leggings, jersey's, pants, headwear for winter and summer, under wear, tank tops (male and female), winter caps, sweat shirts/pull overs, womens bra
UNDER ARMOUR	2,917,039	Wristbands, headbands, rain suits, jackets, socks, skirts, athletic sleeves, hoods, skull wraps, skull caps, vests, hats, shorts, shirts, leggings, pants, headwear for winter and summer, underwear, tank tops, bras, girdles
UNDER ARMOUR & Design	2,954,369	Wristbands, headbands, rain suits, jackets, socks, skirts, athletic sleeves, hoods, skull wraps, skull caps, vests, hats, shorts, shirts, leggings, pants, headwear for winter and summer, underwear, tank tops, bras, girdles
UA UNDER ARMOUR	2,509,632	Clothing namely; shirts, hats, pants, t-shirts, underwear, brassiere and shorts
UNDER ARMOUR	3,052,160	Chin strap pads for use with protective helmets Toiletry kits, sold empty Sports bottles, sold empty Sports towels Gloves
UNDER ARMOUR & Design	3,081,173	Chin strap pads for use with protective helmets Toiletry kits, sold empty Sports bottles, sold empty Sports towels Gloves
UNDER ARMOUR & Design	2,991,124	Sport bags, travel bags, duffel bags, backpacks, sack pacs, and reservoir backpacks
UNDER ARMOUR	3,174,498	Sport bags, travel bags, duffel bafs, backpacks, sack pacs
UNDER ARMOUR	3,178,549	Athletic footwear
UA UNDER ARMOUR # & Design	3,138,451	Clothing, namely vests, gloves, jackets and shirts
ARMOURBLOCK	3,069,215	Gloves, socks, hoods, shirts, T-shirts, leggings, pants, headwear for winter, underwear, and tank tops

Mark	Registration No.	Goods/Services
ARMOUR	3,392,904	Clothing, excluding golf clothing, namely, shorts, shirts, polo shirts, pants, jackets, vests and gloves
UNDER ARMOUR	3,375,771	Retail store services featuring apparel and sporting goods

4. By virtue of its long use of its UNDER ARMOUR marks and trade name for clothing, footwear and related goods and services, the UNDER ARMOUR marks and trade name have become strong, well known and famous, and have come to be exclusively associated with Opposer and with products and services emanating from Opposer.

5. On July 30, 2007, Shabir Balolia filed an intent to use application to register the mark ARMORSPORT for goods identified as: Protective padding for playing baseball, football, basketball, soccer, lacrosse, hockey, skateboarding, rollerskating, snow skiing, water skiing, rugby, volleyball, bicycling, motorcycling, wrestling and martial arts in class 28. Application Serial No. 77/242,322 was published for opposition on January 15, 2008. Opposer obtained an extension of time to oppose, and that extension was granted until May 14, 2008.

6. Opposer believes and therefore alleges that the use and registration of the ARMORSPORT mark covered by Application Serial No. 77/242,322, respectively, will damage Opposer, for the reasons among others:

- a) That customers and purchasers of the respective goods and services will be confused, mistaken or deceived as to the source or origin of Applicant's goods sold under the mark opposed herein; and
- b) That customers and purchasers of the respective goods and services will assume, contrary to fact, that Applicant's goods are associated with, sponsored by,

approved by or otherwise related to or affiliated with Opposer, when such is not the case; and

c) That Applicant's mark will dilute the distinctive quality of Opposer's famous mark within the meaning of The Lanham Act.

7. Applicant's mark in Serial Nos. 77/242,322 so resembles Opposer's previously used and registered UNDER ARMOUR marks and trade name as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake or to deceive within the meaning of 15 U.S.C. Section 1052(d).

8. Registration of the mark sought by Applicant herein is barred by the provisions of The Trademark Act of 1946, as amended, for the reason that the Application consists of a mark which is so similar to Opposer's previously used, registered and famous marks, as to dilute the distinctive quality of Opposer's marks within the meaning of The Lanham Act.

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that registration to Applicant be refused.

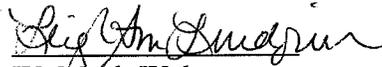
Please charge the \$300 opposition fee to the undersigned's Deposit Account No. 19-4880.

Please charge any deficiency or credit any overpayment to Deposit Account No. 19-4880 as well.

Respectfully submitted,

UNDER ARMOUR, INC.

By:



W. Mack Webner

Leigh Ann Lindquist

Attorneys for Opposer

SUGHRUE MION, PLLC

2100 Pennsylvania Avenue, N.W.

Washington, D.C. 20037-3213

Tele.: (202) 293-7060

Fax: (202) 293-7860

Date: May 14, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION has been mailed this 14th day of May, 2008, by first-class mail, postage prepaid to:

Shabir Balolia
1821 Valencia Street
Bellingham, WASHINGTON 98229



Leigh Ann Lindquist