

ESTTA Tracking number: **ESTTA229031**

Filing date: **08/07/2008**

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	Trek Bicycle Corporation		
Entity	Corporation	Citizenship	Wisconsin
Address	801 West Madison Waterloo, WI 53594 UNITED STATES		

Attorney information	Ameen Imam Merz & Associates, P.C. 1140 Lake Street, Suite #304 Oak Park, IL 60301-1051 UNITED STATES docket@merz-law.com Phone:708-383-8801		
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Applicant Information

Application No	77277445	Publication date	07/29/2008
Opposition Filing Date	08/07/2008	Opposition Period Ends	08/28/2008
Applicant	BONAGE INC., S.A. Av. Roosevelt, EDIF. 5, Local B FreeZone Colon City, PANAMA		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Apparel, namely, pants, jeans, leggings, stirrup pants, shorts, skirts, split shorts, split skirts, vests, shirts, T-shirts, blouses, sweaters, jackets, footwear and shoes, underwear, robes, sleepwear, briefs, string bikinis, camisoles, tank tops, bras, panties, socks, panty hose, tights, stockings, slipper socks, dresses, rompers, jumpsuits, swim suits, scarves, hats and gloves
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1994941	Application Date	05/01/1995
Registration Date	08/20/1996	Foreign Priority Date	NONE
Word Mark	BONTRAGER		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 [bicycles, bicycle frames,] handlebars, bar ends and grips, stems, bottom brackets, seat posts, saddles, rims Class 025. First use: First Use: 1983/12/28 First Use In Commerce: 1990/00/00 T-shirts, jerseys, [sweatshirts,] and hats

Attachments	22620.nop.pdf (5 pages)(159412 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	/Ameen Imam/
Name	Ameen Imam
Date	08/07/2008

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

In the Matter of U.S. Application Serial No. 77/277,445
For: BONAGE and Design
Filed: September 12, 2007
Date of Publication: July 29, 2008

TREK BICYCLE CORPORATION)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
BONAGE INC., S.A.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 77/277,445 ("Serial No. 77/277,445") for the mark "BONAGE and Design" in International Class 25, filed in the name of Bonage Inc., S.A. ("applicant"), which was published for opposition in the Official Gazette of July 29, 2008. Trek Bicycle Corporation ("Trek"), a Wisconsin corporation with its principal place of business at 801 West Madison, Waterloo, Wisconsin 53594, believes it will be damaged by the registration of the mark in Serial No. 77/277,445 in International Class 25 and hereby opposes the same,

in accordance with Section 13 of The Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Trek alleges as follows:

1. Upon information and belief, applicant is a corporation organized under the laws of Panama with a principal place of business located at Av. Roosevelt, EDIF. 5, Local B FreeZone, Colon City, Panama.

2. Applicant seeks to register "BONAGE and Design" in connection with the following goods:

apparel, namely, pants, jeans, leggings, stirrup pants, shorts, skirts, split shorts, split skirts, vests, shirts, T-shirts, blouses, sweaters, jackets, footwear and shoes, underwear, robes, sleepwear, briefs, string bikinis, camisoles, tank tops, bras, panties, socks, panty hose, tights, stockings, slipper socks, dresses, rompers, jumpsuits, swim suits, scarves, hats and gloves in International Class 25,

as evidenced by the publication of Serial No. 77/277,445 in the Official Gazette of July 29, 2008.

3. Upon information and belief, applicant filed its application on September 12, 2007 under Section 1(b) of the Trademark Act [15 U.S.C. §1051(b)], claiming an intent to use the mark "BONAGE and Design" in commerce for goods in Class 25.

4. Since at least 25 years prior to applicant's filing date for the mark "BONAGE and Design", Trek adopted and has continuously used its "BONTRAGER" mark in connection with handlebars, bar ends and grips, stems, bottom brackets, seat posts, saddles, rims.

5. Since at least 24 years prior to applicant's filing date for the mark "BONAGE and Design", Trek adopted and has continuously used its "BONTRAGER" mark in connection with T-shirts, jerseys and hats.

6. Trek has invested substantial amounts of time, effort and money in registering, promoting and policing its "BONTRAGER" trademark throughout the United States and the rest of the world. As such, in addition to the protection afforded Trek by its federal trademark registrations, Trek has extensive, non-registered statutory and common law rights in its "BONTRAGER" mark for its goods.

7. Trek is the owner of incontestable U.S. Trademark Registration No. 1,994,941 for "BONTRAGER" for "handlebars, bar ends and grips, stems, bottom brackets, seat posts, saddles, rims" in Class 12 and "T-shirts, jerseys and hats" in Class 25. This registration is valid, subsisting, uncanceled and is conclusive evidence of Trek's exclusive right to use the

"BONTRAGER" mark in commerce on the goods specified in the registration.

8. Since at least as early as the respective dates of first use stated in its registration, Trek has used its marks in connection with the sale of its goods covered by its registration. Such use has been valid and continuous, and has not been abandoned. The public has come to associate Trek with the "BONTRAGER" trademark.

9. Applicant has no license, consent or permission from Trek to use or register "BONAGE and Design".

10. Applicant's mark "BONAGE and Design" so resembles Trek's "BONTRAGER" mark that is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of The Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods in Serial No. 77/277,445 originate with Trek or otherwise are authorized, licensed or sponsored by Trek.

11. By reason of all the foregoing, Trek will be gravely damaged by the registration of applicant's "BONAGE and Design"

mark for the goods in Class 25, because registration of that mark would be in violation of Trek's trademark rights.

WHEREFORE, Trek prays that this Notice of Opposition be sustained in favor of Trek and that Serial No. 77/277,445 be denied registration. Trek submits herewith a payment to cover its filing fee of \$300.00, as required by 37 C.F.R. §2.6(a)(17).

Respectfully submitted,

TREK BICYCLE CORPORATION

Date: August 7, 2008

By: 

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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served on the applicant's counsel by First Class Mail this 7th day of August 2008, addressed to:

H. Jay Spiegel
H. Jay Spiegel & Associates
P.O. Box 11
Mount Vernon, VA 22121

Date: August 7, 2008 By: 