

ESTTA Tracking number: **ESTTA259542**

Filing date: **01/08/2009**

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	UPCOMING TM S.A.		
Entity	Corporation	Citizenship	Luxembourg
Address	29, AVENUE MONTEREY Luxembourg, LUXEMBOURG		

Attorney information	H. John Campaign Graham, Campaign P.C. 36 West 44th Street New York, NY 10036-8178 UNITED STATES ip@grahamcampaign.com Phone:(212) 354-5650
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### Applicant Information

Application No	77519826	Publication date	12/09/2008
Opposition Filing Date	01/08/2009	Opposition Period Ends	01/08/2009
Applicant	Truw-Story LLC c/o J. Schweiger, 170 E 87th St., # E6E New York, NY 10028 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Wearable garments and clothing, namely, shirts
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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. Application No.	77457894	Application Date	04/25/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	KILLAH		

Design Mark	<b>KILLAH</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/10/24 First Use In Commerce: 2002/10/24 Men's, women's and children's clothing, footwear and headgear, namely, shirts, shorts, slacks, trousers, pants, suits, sweaters, blazers, jackets, belts, boxer shorts, briefs, sports coats, dungarees, fishing vests, jogging suits, gloves, mittens, neckerchiefs, sweat pants, sweat shirts, polo shirts, rain coats, robes, bathing suits, trunks, T-shirts, warmup suits, wrist bands, wet suits, blouses, skirts, culottes, dresses, gauchos, halters, undergarments, unitards, body stockings, pantyhose, leotards and scarves, shoes, athletic shoes, boots, slippers, socks, stockings and innersoles, hats, caps, rain hats and sun visors

Attachments	77457894#TMSN.jpeg ( 1 page )( bytes ) Notice_of_Opposition_to_Application_SN_77519826.pdf ( 4 pages )(61550 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	/h. john campaign/
Name	H. John Campaign
Date	01/08/2009

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being filed electronically via ESTTA on January 8, 2009

/Jasmin Cruz/  
Jasmin Cruz

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

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UPCOMING TM S.A.,

**Opposer,**

v.

**Opposition No.** \_\_\_\_\_

Truw-Story LLC.,

**Applicant.**

\_\_\_\_\_  
Honorable Commissioner for Trademarks  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**NOTICE OF OPPOSITION**

In the Matter of Application Serial No. 77/519,826 in the name of TRUW-STORY LLC (“Applicant” herein), UPCOMING TM S.A. (“Opposer” herein ), a Luxembourg corporation, with a place of business at 29, Avenue Monterey Luxembourg, Luxembourg, believes that it will be damaged by registration of the trademark as shown in such application, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the trademark KILLAH and has applied to register said mark for all kinds of wearing apparel, including shirts, in International Class 025, Serial No. 77/457,894, filed April 25, 2008, claiming first use anywhere and in commerce on October 24, 2002.
2. Applicant has applied to register the trademark KILLA STONZ KS for “Wearable garments and clothing, namely, shirts”, in International Class 025, based on Intention to Use, Serial No.77/519,826, filed July 11, 2008.
3. Opposer has the prior filing date and also claims priority of use.
4. Applicant’s aforesaid mark includes Opposer’s mark in its entirety and is confusingly similar to Opposer’s mark.
5. The respective goods of the parties are the same and closely related.
6. Applicant’s mark is likely to cause confusion of purchasers as to the ownership of the respective marks and the source of origin or sponsorship of the respective goods.
7. As a consequence, Opposer and the good will of its business as symbolized by the trademark KILLAH is likely to be irreparably injured and damaged.

**WHEREFORE**, Opposer prays that this Notice of Opposition be sustained and registration of Applicant's mark be denied.

This Notice of Opposition is being filed electronically and served on Applicant's attorney by first class mail today.

Dated: January 8, 2009  
New York, New York

Respectfully Submitted,

GRAHAM, CAMPAIGN P.C.

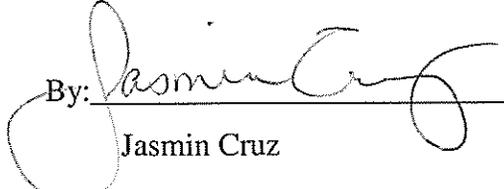
By:   
H. John Campaign

*Attorneys for Opposer*  
The Bar Building  
36 West 44<sup>th</sup> Street  
Suit 1201  
New York, N.Y. 10036-8178  
Telephone (212) 354-5650

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF  
OPPOSITION is being served on January 8, 2009, by first class mail, postage prepaid,  
upon Applicant by service on Applicant's domestic representative and attorney of record:

Andreas Seuffert  
GILMARTIN, POSTER & SHAFTO LLP  
845 3<sup>rd</sup> Avenue Fl 18  
New York, NY 10022

By:   
Jasmin Cruz